



PUBLIC NOTICE

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DA 07-168
January 23, 2007

DOMESTIC AUTHORIZATION GRANTED

Domestic Section 214 Application Filed for the Acquisition of Assets of Yestel, Inc. to TTUSA Acquisitions, Inc.

WC Docket No. 06-139

By the Chief, Wireline Competition Bureau:

On July 11, 2006, Yestel, Inc. ("Yestel") and TTUSA Acquisition (TTUSA") (together, the "applicants"), filed an application, pursuant to sections 63.03 and 63.04 of the Commission's rules,¹ seeking authority to transfer certain assets of Yestel to TTUSA.²

The Commission released a public notice accepting the application for streamlined processing on September 15, 2006.³ On September 29, 2006, the Federal Bureau of Investigation ("FBI"), along with the Department of Justice ("DOJ") and the Department of Homeland Security ("DHS") (collectively, the "Executive Branch Agencies") filed with the Commission a letter requesting that the Commission defer grant of this application while the Executive Branch Agencies address potential national security, law enforcement, and public safety issues.⁴ In response to the requests filed by the Executive Branch Agencies, the Wireline Competition Bureau removed the application from streamlined review.⁵ On

¹ 47 C.F.R. §§ 63.03, 63.04; *see* 47 U.S.C. § 214.

² Applicants have also filed an application for transfer of control associated with authorization for international services. Any action on this domestic 214 application is without prejudice to Commission action on other related, pending applications.

³ *Domestic Section 214 Application filed for the Acquisition of Assets of Yestel, Inc. to TTUSA Acquisition, Inc.*, WC Docket No. 06-139, Public Notice, DA 06-1879 (rel. September 15, 2006).

⁴ *See* Letter from Elaine N. Lammert, Deputy General Counsel, Office of the General Counsel, Federal Bureau of Investigation, to Marlene H. Dortch, Federal Communications Commission, WC Docket No. 06-139 (filed September 29, 2006).

⁵ *See Notice of Removal of Domestic Section 214 Application From Streamlined Treatment*, WC Docket No. 06-127, Public Notice, DA 06-1521 (rel. July, 26, 2006).

January 17, 2007, the Executive Branch Agencies withdrew their September 29, 2006 request to defer action on the application noting that they have no objection to the application.⁶

The Wireline Competition Bureau finds, upon consideration of the record, that grant of the application will serve the public interest, convenience, and necessity. Upon consummation of the transaction, the resulting entity will have a market share in the U.S. interstate interexchange market of less than 10 percent, and will provide competitive telephone exchange services or exchange access services exclusively in geographic areas served by a dominant local exchange carrier in the U.S. that is not a party to the transaction. In addition, no party to this transaction is dominant with respect to any domestic service.

Consistent with Commission precedent, the Wireline Competition Bureau accords the appropriate level of deference to the Executive Branch Agencies' expertise on national security and law enforcement issues.⁷ Therefore, pursuant to section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and section 0.291 of the Commission's rules,⁸ the Wireline Competition Bureau hereby grants the application discussed in this Public Notice.

Pursuant to section 1.103 of the Commission's rules, the grant is effective upon release of this Public Notice.⁹ Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules may be filed within 30 days of the date of this Public Notice.¹⁰

For further information, please contact Dennis Johnson at (202) 418-0809, Competition Policy Division, Wireline Competition Bureau.

⁶ See Letter from Elaine N. Lammert, Deputy General Counsel, Office of the General Counsel, Federal Bureau of Investigation, to Marlene H. Dortch, FCC, WC Docket No. 06-139 and ITC-ASG-20060717-00355 (filed January 17, 2006).

⁷ The Commission considers national security, law enforcement, foreign policy, and trade policy concerns when analyzing a transfer of control or assignment application in which foreign ownership is an issue. See *Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Satellites Providing Domestic and International Service in the United States*, Report and Order, 12 FCC Rcd 24094, 24170-72, paras. 178-82 (1997); *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23919-21, paras. 61-66 (1997) ("*Foreign Participation Order*"), Order on Reconsideration, 15 FCC Rcd 18158 (2000). In assessing the public interest, the Commission considers the record and accords the appropriate level of deference to Executive Branch expertise on national security and law enforcement issues. See *Foreign Participation Order*, 12 FCC Rcd at 23919-21, paras. 61-66.

⁸ 47 C.F.R. § 0.291.

⁹ See 47 C.F.R. § 1.103.

¹⁰ See 47 C.F.R. §§ 1.106, 1.115.